

SENATE BILL No. 179

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-32.2-1-1; IC 4-38; IC 6-8.1-1-1; IC 35-45-5-14; IC 35-52-4.

Synopsis: Video gaming terminals. Authorizes wagering on video gaming terminals in certain establishments. Establishes a licensing structure for participants in video gaming. Imposes a video gaming wagering tax of 30% of adjusted gross receipts.

Effective: July 1, 2016.

Messmer

January 6, 2016, read first time and referred to Committee on Rules & Legislative Procedure.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 179

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-32.2-1-1, AS AMENDED BY P.L.186-2015,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 1. (a) This article applies only to a qualified
4 organization.
5 (b) This article applies only to the following approved gambling
6 events conducted as fundraising activities by qualified organizations:
7 (1) Bingo events, charity game nights, door prize events, raffle
8 events, festivals, and other gaming events approved by the
9 commission.
10 (2) The sale of pull tabs, punchboards, and tip boards:
11 (A) at bingo events, charity game nights, door prize events,
12 raffle events, and festivals conducted by qualified
13 organizations; or
14 (B) at any time on the premises owned or leased by a qualified
15 organization and regularly used for the activities of the
16 qualified organization.
17 This article does not apply to any other sale of pull tabs,



punchboards, and tip boards.

(c) This article does not apply to a promotion offer subject to IC 24-8.

(d) This article does not apply to the following:

(1) A type II gambling game authorized by IC 4-36.

(2) A raffle or other gambling game authorized by IC 4-36-5-1(b).

(3) Video gaming authorized by IC 4-38.

(e) This article does not apply to a prize linked savings program that:

(1) is offered or conducted by an eligible financial institution under IC 28-1-23.2;

(2) is:

(A) offered or conducted by a credit union organized or reorganized under United States law; and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; or

(3) is:

(A) offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:

(i) a national bank formed under 12 U.S.C. 21;

(ii) a state member bank (as defined in 12 U.S.C. 1813);

(iii) a state nonmember bank (as defined in 12 U.S.C. 1813);

or

(iv) a savings association (as defined in 12 U.S.C. 1813);

and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2.

SECTION 2. IC 4-38 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

ARTICLE 38. VIDEO GAMING IN ESTABLISHMENTS

Chapter 1. General Provisions

Sec. 1. This article applies only to wagering on video gaming terminals located in licensed establishments under a video gaming terminal installation contract described in IC 4-38-8.

Sec. 2. All shipments of video gaming terminals to a manufacturer, distributor, supplier, operator, or establishment in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or dealer in accordance with 15 U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of gambling devices into Indiana.

Sec. 3. Under 15 U.S.C. 1172, approved January 2, 1951, the



1 state of Indiana, acting by and through elected and qualified
 2 members of the general assembly, declares that the state is exempt
 3 from 15 U.S.C. 1172.

4 Sec. 4. (a) This section does not apply to real or personal
 5 property taxes imposed by a local taxing unit.

6 (b) Local governmental authority concerning all matters
 7 relating to video gaming conducted under this article is preempted
 8 by the state.

9 (c) No tax or fee, except as provided in this article, shall be
 10 assessed or collected from a licensee by a political subdivision
 11 having the power to assess or collect a tax or fee. This section does
 12 not prohibit the assessment and levying of property taxes otherwise
 13 authorized by law or the imposing of a special assessment
 14 (including a ditch or drainage assessment, Barrett Law assessment,
 15 improvement assessment, sewer assessment, or sewage assessment)
 16 otherwise authorized by law to be imposed on property to be
 17 benefited by an improvement.

18 (d) A political subdivision may not enter into an agreement with
 19 a licensee that requires any financial commitments from the
 20 licensee that are in addition to the fees and taxes imposed under
 21 this article.

22 (e) An ordinance prohibiting video gaming in existence on June
 23 30, 2016, is preempted by this article. However, the legislative body
 24 of:

- 25 (1) a city or town may pass an ordinance to prohibit video
- 26 gaming within the corporate limits of the city or town; or
- 27 (2) a county may pass an ordinance to prohibit video gaming
- 28 in the unincorporated area of the county;

29 after June 30, 2016.

30 Sec. 5. This article will maintain the public's confidence and
 31 trust through:

- 32 (1) comprehensive law enforcement supervision; and
- 33 (2) the strict regulation of facilities, persons, associations, and
- 34 video gaming at establishments.

35 Chapter 2. Definitions

36 Sec. 1. The definitions in this chapter apply throughout this
 37 article.

38 Sec. 2. "Adjusted gross receipts" means the difference between:

- 39 (1) a person's gross receipts; minus
- 40 (2) prizes paid out to patrons by the person.

41 Sec. 3. "Charitable organization establishment" means the
 42 premises on which an organization or institution that is:



(1) organized and conducted on a nonprofit basis; and
 (2) exempt from federal income taxation under Section 501(c)
 of the Internal Revenue Code;

regularly meets.

Sec. 4. "Commission" refers to the Indiana gaming commission
 established by IC 4-33-3-1.

Sec. 5. "Convenience store" refers to a store or food mart that
 is primarily engaged in:

(1) the retail sale of a line of goods that may include milk,
 bread, soda, and snacks; or

(2) the retail sale of automotive fuels and the retail sale of a
 line of goods that may include milk, bread, soda, and snacks.

Sec. 6. "Department" refers to the department of state revenue.

Sec. 7. "Distributor" means a person licensed under this article
 to:

(1) buy a video gaming terminal from a manufacturer; and
 (2) sell, lease, or otherwise distribute a video gaming terminal
 or major components or parts of a video gaming terminal to
 an operator.

Sec. 8. "Establishment" means any of the following locations
 licensed to have video gaming terminals on the premises:

(1) A charitable organization establishment.

(2) A retail establishment.

(3) A truck stop establishment.

Sec. 9. "Gross receipts" means the total amount of money
 wagered, either by cash or ticket, by patrons on a video gaming
 terminal in an establishment.

Sec. 10. "Licensee" means a person holding a license issued
 under this article.

Sec. 11. "Manufacturer" means a person that is licensed under
 this article to:

(1) manufacture or assemble video gaming terminals; and

(2) sell video gaming terminals to a distributor.

Sec. 12. "Occupational licensee" means an individual who is
 licensed under this article to possess, control, repair, service, or
 maintain video gaming terminals.

Sec. 13. "Operator" means a person that is licensed under this
 article to own or lease, install, maintain, and operate video gaming
 terminals at an establishment located in Indiana.

Sec. 14. "Patron" means an individual who wagers on gambling
 games played on a video gaming terminal.

Sec. 15. "Payment ticket" means a ticket dispensed by a video



1 gaming terminal in exchange for credits accumulated on a video
2 gaming terminal.

3 Sec. 16. "Payout device" means a device that redeems a payout
4 ticket with cash.

5 Sec. 17. "Person" means an individual, a sole proprietorship, a
6 partnership, an association, a fiduciary, a corporation, a limited
7 liability company, or any other business entity.

8 Sec. 18. "Retail establishment" means a premises on which
9 alcoholic beverages are drawn, poured, mixed, or otherwise served
10 for consumption on the premises, regardless of whether the
11 establishment operates on a for-profit or nonprofit basis.

12 Sec. 19. "Supplier" means a person that is licensed under this
13 article to supply major components or parts to video gaming
14 terminals.

15 Sec. 20. "Truck stop establishment" means a premises that:

16 (1) is equipped with diesel islands designated for fueling
17 commercial motor vehicles (as defined by IC 9-13-2-31);

18 (2) has sold at retail on average more than fifty thousand
19 (50,000) gallons of diesel or biodiesel fuel each month over the
20 previous twelve (12) months or is estimated to average more
21 than fifty thousand (50,000) gallons in retail sales of diesel or
22 biodiesel fuel per month, in the case of a newly opened truck
23 stop;

24 (3) has parking spaces designated for commercial motor
25 vehicles; and

26 (4) has a convenience store.

27 Sec. 21. "Vendor" means a person who provides or proposes to
28 provide goods or services to the commission. The term does not
29 include an employee of the commission, a licensed establishment,
30 a licensee, or a state agency.

31 Sec. 22. "Video gaming terminal" means an electronic video
32 gaming machine that:

33 (1) is available for consideration in the form of cash or ticket
34 to play or simulate the play of a gambling game, including
35 poker, line up, and blackjack, using a video display and
36 microprocessors; and

37 (2) awards winning players with free games or credits that
38 may be redeemed for cash.

39 The term does not include a machine that directly dispenses coins,
40 cash, or tokens or is for amusement purposes only.

41 Sec. 23. "Video gaming terminal installation contract" means
42 a contractual agreement between:



(1) an operator or a person eligible to apply for an operator's license; and

(2) an establishment or a person eligible to apply for an establishment license;

that sets forth the terms and conditions for the placement, installation, and operation of video gaming terminals on the premises of the establishment.

Chapter 3. Powers and Duties of the Indiana Gaming Commission

Sec. 1. The commission has jurisdiction and supervision over the following:

(1) All video gaming operations in Indiana.

(2) All patrons in establishments.

Sec. 2. (a) The commission has the following powers for the purpose of administering, regulating, and enforcing the system of video gaming established under this article:

(1) All powers and duties specified in this article.

(2) All powers necessary and proper to fully and effectively execute this article.

(3) The power to conduct hearings and to issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other relevant documents.

(4) The power to administer oaths and affirmations to witnesses.

(5) The power to revoke, suspend, or renew licenses issued under this article.

(6) The power to hire employees, gather information, conduct investigations, and carry out other tasks under this article.

(b) The commission has the following duties for the purpose of administering, regulating, and enforcing the system of video gaming established under this article:

(1) To investigate and reinvestigate applicants, vendors, suppliers, establishments, and licensees.

(2) To take appropriate administrative enforcement or disciplinary action against a person regulated under this article.

(3) To investigate alleged violations of this article.

(4) To take any reasonable or appropriate action to enforce this article.

Sec. 3. (a) The commission shall adopt rules under IC 4-22-2 for the following purposes:



(1) Administering this article.

(2) Establishing the conditions under which video gaming in Indiana may be conducted.

(3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of video gaming in Indiana.

(4) Imposing penalties for noncriminal violations of this article.

(b) The commission shall adopt emergency rules in the manner provided under IC 4-22-2-37.1 for the purposes described in subsection (a) to enable video gaming in Indiana to commence as soon as possible after June 30, 2016.

Sec. 4. The commission shall do the following:

(1) Conduct all hearings concerning civil violations of this article.

(2) Levy and collect penalties for noncriminal violations of this article.

(3) Deposit the penalties in the state general fund.

Sec. 5. The commission shall adopt standards for the licensing of the following:

(1) Persons regulated under this article.

(2) Equipment necessary to conduct video gaming.

Sec. 6. The commission shall issue a request for proposals for a central communication system vendor and enter into a contract with a central communication system vendor.

Sec. 7. The commission shall issue a request for proposals for an independent outside testing laboratory for the examination of video gaming terminals and associated equipment as required by this article. The commission shall enter into contracts with at least two (2) independent outside testing laboratories.

Sec. 8. If a licensee or an employee of a licensee violates this article or engages in a fraudulent act, the commission may do any combination of the following:

(1) Suspend, revoke, or restrict the license of the licensee.

(2) Require the removal of a licensee or an employee of a licensee.

(3) Impose a civil penalty or fine upon the licensee or employee.

Sec. 9. (a) The commission shall employ investigators.

(b) An investigator employed by the commission is vested with full police powers and duties to enforce this article.

(c) An investigator may issue a summons for an infraction or a



1 misdemeanor violation if the defendant promises to appear by
 2 signing the summons. A defendant who signs a summons issued
 3 under this subsection but fails to appear is subject to the penalties
 4 provided by IC 35-44.1-2-10. Upon the defendant's failure to
 5 appear, the court shall issue a warrant for the arrest of the
 6 defendant.

7 (d) In addition to the powers and duties vested under subsection
 8 (b), an investigator may act as an officer for the arrest of offenders
 9 who violate the laws of Indiana if the investigator reasonably
 10 believes that a crime has been, is being, or is about to be committed
 11 or attempted in the investigator's presence.

12 Sec. 10. The commission shall establish the minimum amount of
 13 insurance that must be maintained by an operator or an
 14 establishment.

15 Chapter 4. Applicant Information

16 Sec. 1. This chapter applies to an applicant for any of the
 17 following:

- 18 (1) A manufacturer license.
- 19 (2) A distributor license.
- 20 (3) A supplier license.
- 21 (4) An operator license.
- 22 (5) An establishment license.

23 Sec. 2. (a) An applicant for a manufacturer, distributor,
 24 supplier, operator, or establishment license must provide the
 25 following information:

- 26 (1) The name, business address, and business telephone
 27 number of the applicant.
- 28 (2) The following information for an applicant that is not an
 29 individual:
 - 30 (A) The state of the applicant's incorporation or
 31 registration.
 - 32 (B) The names of all directors and officers.
- 33 (3) The identity of the following:
 - 34 (A) Any person in which the applicant has an equity
 35 interest of at least five percent (5%) of all shares. The
 36 identification must include the state of incorporation or
 37 registration, if applicable. However, an applicant that has
 38 a pending registration statement filed with the Securities
 39 and Exchange Commission is not required to provide
 40 information under this clause.
 - 41 (B) The shareholders or participants in the applicant. An
 42 applicant whose interests are publicly traded is required to



- 1 provide only the names of the persons holding an equity
- 2 interest of more than five percent (5%).
- 3 (4) An identification of any business, including the state of
- 4 incorporation or registration, if applicable, in which an
- 5 applicant, the spouse of the applicant, or a child of the
- 6 applicant, has an equity interest of more than five percent
- 7 (5%).
- 8 (5) If the applicant has been indicted or convicted, has pled
- 9 guilty or nolo contendere, or has forfeited bail concerning a
- 10 criminal offense under the laws of any jurisdiction, the
- 11 applicant must include the following information:
- 12 (A) The name and location of the following:
- 13 (i) The court.
- 14 (ii) The arresting law enforcement agency.
- 15 (iii) The prosecuting attorney.
- 16 (B) The case number.
- 17 (C) The date and type of the criminal offense.
- 18 (D) The disposition of the case.
- 19 (E) The location and duration of any periods of
- 20 incarceration served by the applicant.
- 21 (6) If the applicant has had a license or a certificate issued by
- 22 a licensing authority in Indiana or any other jurisdiction
- 23 denied, restricted, suspended, revoked, or not renewed, the
- 24 applicant must provide the following information:
- 25 (A) A statement describing the facts and circumstances
- 26 concerning the authority's actions concerning the
- 27 applicant's license or certificate.
- 28 (B) The date of the authority's action concerning the
- 29 applicant's license or certificate.
- 30 (C) The reason for the authority's action concerning the
- 31 applicant's license or certificate.
- 32 (7) If the applicant:
- 33 (A) has filed or had filed against the applicant a proceeding
- 34 in bankruptcy; or
- 35 (B) has been involved in a formal process to adjust, defer,
- 36 suspend, or work out the payment of a debt;
- 37 the applicant must provide the date of filing, the name and
- 38 location of the court, the case number of the proceeding, and
- 39 the disposition of the proceeding.
- 40 (8) If the applicant has filed or been served with a complaint
- 41 or notice filed with a public body concerning:
- 42 (A) a delinquency in the payment of; or



(B) a dispute over the filing of;
 a return or the payment of a tax under federal, state, or local
 law, the applicant must include the amount of the disputed
 tax, the type of the disputed tax, the name of the taxing agency
 involved, and the time involved in the tax dispute.

(9) A statement listing the names and positions of public
 officials, public officers, and the relatives of public officials
 and public officers who directly or indirectly:

(A) have a financial interest in;

(B) have a beneficial interest in;

(C) are the creditors of;

(D) hold a debt instrument issued by; or

(E) have an interest in a contractual or service relationship
 with;

the applicant.

(10) Except as provided in subsection (b), if the applicant has
 directly or indirectly made a political contribution, loan,
 donation, or other payment to a candidate or an office holder
 in Indiana in the five (5) years before the date of the
 application, the applicant must provide the amount and
 method of the payment.

(11) The name and business telephone number of the attorney
 who will represent the applicant in matters before the
 commission.

(12) A description of the product or service to be
 manufactured, distributed, or supplied by the applicant if the
 applicant is applying for a manufacturer, distributor, or
 supplier license.

(b) Subsection (a)(10) does not apply to an applicant for an
 establishment license.

Sec. 3. (a) The following information that may be submitted,
 collected, or gathered as part of an application for a license under
 this article is confidential for purposes of IC 5-14-3-4:

(1) Any information concerning a minor child of the
 applicant.

(2) The Social Security number of the applicant or the
 applicant's spouse.

(3) The home telephone number of the applicant, the
 applicant's spouse, or the children of the applicant.

(4) An applicant's birth certificate.

(5) The driver's license number of the applicant or the
 applicant's spouse.



(6) The name or address of any former spouse of the applicant.

(7) The date of birth of the applicant's spouse.

(8) The place of birth of the applicant's spouse.

(9) The personal financial records of an applicant, the applicant's spouse, or a minor child of the applicant.

(10) Any information concerning a victim of domestic violence, sexual assault, or stalking.

(11) The electronic mail address of an applicant, the spouse of an applicant, or a family member of an applicant.

(b) In addition to information that is confidential under subsection (a), all information maintained by the commission concerning an applicant who holds, held, or has applied for a license under this article:

(1) is confidential for purposes of IC 5-14-3; and

(2) may be released by the commission only for law enforcement purposes or to a state agency.

(c) For the safety of the public, establishments, and operators, the commission may not disclose financial data related to the economic performance of video gaming at any individual establishment.

Sec. 4. Notwithstanding any other law, the commission shall provide upon written request the following information:

(1) The information provided under section 2 of this chapter concerning a licensee or an applicant.

(2) The aggregate amount of tax paid to the state by all of the establishments located in each municipality or county.

(3) A copy of any documentation from the commission providing the reasons for the denial, revocation, suspension, or nonrenewal of a license.

(4) A copy of any documentation from the commission providing the reasons for the commission's refusal to allow an applicant to withdraw the applicant's application.

Chapter 5. Licensing of Persons

Sec. 1. (a) The commission may issue the following licenses under this chapter to qualified applicants:

(1) A manufacturer license.

(2) A distributor license.

(3) A supplier license.

(4) An operator license.

(5) An establishment license.

(b) To obtain a license, a person must submit an application



1 form, an application fee, and any information requested by the
2 commission under this article.

3 (c) The commission shall, promptly and in reasonable order,
4 approve or reject all license applications received under this
5 article.

6 Sec. 2. The burden is on each applicant to demonstrate the
7 applicant's suitability for a license issued under this article. The
8 commission may issue or deny a license as provided by this article.

9 Sec. 3. An applicant for a license under this article must submit
10 to a background investigation conducted by the commission with
11 the assistance of the state police or another law enforcement
12 agency.

13 Sec. 4. A person may not be licensed under this article if any of
14 the following apply:

15 (1) The applicant has knowingly made a false statement of
16 material fact to the commission.

17 (2) The applicant is found by the commission to lack the
18 necessary financial stability or responsibility for holding an
19 establishment license issued under this article.

20 (3) The applicant, if an individual, is less than twenty-one (21)
21 years of age on the date on which the application is received
22 by the commission.

23 (4) The applicant is on the most recent tax warrant list.

24 (5) The applicant, if an individual, has been convicted of or
25 entered a plea of guilty or nolo contendere to a crime set forth
26 in IC 35-45-5 or a crime of moral turpitude.

27 (6) The applicant, if an individual, has been convicted of or
28 entered a plea of guilty or nolo contendere to a felony within
29 the ten (10) years preceding the date of the license application,
30 unless the commission determines that:

31 (A) the individual has been pardoned or the individual's
32 civil rights have been restored;

33 (B) after the conviction or entry of the plea, the individual
34 has engaged in the kind of law abiding commerce and good
35 citizenship that would reflect well upon the integrity of the
36 commission; or

37 (C) the individual has terminated a relationship with a
38 person whose actions directly contributed to the conviction
39 or entry of the plea.

40 (7) The applicant fails to provide all materials requested by
41 the commission.

42 (8) The applicant has a background, including a criminal



record, reputation, habits, social or business associations, or prior activities, that poses a threat to the public interests of the state or to the security and integrity of video gaming.

(9) The applicant may create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of video gaming.

(10) The applicant presents questionable business practices and financial arrangements incidental to the conduct of video gaming operations.

Sec. 5. The fact that an applicant:

(1) has faced charges of a crime described in section 4(5) or 4(6) of this chapter that were ultimately dismissed; or

(2) has been charged with a crime described in section 4(5) or 4(6) of this chapter, but not convicted of the crime;

is not sufficient grounds to disqualify the applicant for a license under this article in the absence of other facts determined by the commission to support a finding of unsuitability under section 4(8) through 4(10) of this chapter.

Sec. 6. The costs of investigating an applicant for a license under this chapter must be paid from the initial license fee paid by the applicant under IC 4-38-13.

Sec. 7. The commission shall conduct or cause to be conducted a background investigation of each applicant for a license issued under this chapter.

Sec. 8. Criminal history record information obtained during the investigation of an individual must be maintained by the commission for the term of the license and for any subsequent license term.

Sec. 9. The commission may require that an application or other document submitted by an applicant or a licensee must be sworn to or affirmed before a notary public.

Sec. 10. An applicant must furnish all information requested by the commission, including financial data and documents, certifications, consents, waivers, and individual histories.

Sec. 11. (a) An initial license issued under this chapter is valid for one (1) year. A person holding a manufacturer license, a distributor license, a supplier license, or an operator license may annually renew the license if:

(1) the commission determines that the person satisfies the conditions of this article; and

(2) the person pays the annual renewal fee under IC 4-38-13.

(b) A person holding a manufacturer license, a distributor



1 license, a supplier license, or an operator license is subject to a
 2 complete investigation every three (3) years to determine that the
 3 person is in compliance with this article. The costs of the
 4 investigation must be paid from the renewal license fee paid under
 5 IC 4-38-13.

6 (c) Notwithstanding subsection (b), the commission may
 7 investigate a person holding a manufacturer license, a distributor
 8 license, a supplier license, or an operator license at any time the
 9 commission determines that an investigation is necessary to ensure
 10 that the person remains in compliance with this article.

11 Sec. 12. (a) The commission may issue an establishment license
 12 to an applicant that satisfies the requirements of this article.

13 (b) An establishment license allows the licensee to conduct video
 14 gaming under a video gaming terminal installation contract at the
 15 street address specified in the licensee's application for the
 16 establishment license. A person must obtain a separate
 17 establishment license for each premises at which the person wishes
 18 to conduct video gaming under a video gaming terminal
 19 installation contract.

20 (c) An establishment license issued under this chapter is valid
 21 for one (1) year.

22 Sec. 13. (a) To qualify for an establishment license, a person
 23 must operate:

- 24 (1) an establishment licensed under IC 7.1-3 to sell alcoholic
 25 beverages to customers for consumption on the premises of
 26 the establishment; or
- 27 (2) a truck stop establishment.

28 (b) The following may not apply for an establishment license
 29 under this article:

- 30 (1) A person holding a horse track permit under IC 7.1-3-17.7.
- 31 (2) A licensed owner of a riverboat licensed under IC 4-33.
- 32 (3) An operating agent who operates a riverboat in a historic
 33 hotel district under IC 4-33-6.5.
- 34 (4) A person holding a gambling game license issued under
 35 IC 4-35-5.
- 36 (5) A person holding a permit issued under IC 7.1-3 for any of
 37 the following:
 - 38 (A) A boat permit.
 - 39 (B) A hotel permit.
 - 40 (C) A resort hotel permit.
 - 41 (D) An airport permit.
 - 42 (E) A satellite facility permit.



(F) A microbrewery permit.

(G) A social club permit.

(H) A civic center permit.

(I) A catering hall permit.

(J) A dining car permit.

(K) A temporary event permit.

(L) A permit for any of the following facilities:

(i) A stadium.

(ii) An automobile race track.

(iii) A concert hall.

(6) A person operating a convenience store.

Sec. 14. If the commission proposes to revoke a license issued under this chapter, the licensee may continue to operate under the license until the commission has made a decision and all administrative appeals have been exhausted by the licensee.

Chapter 6. Restrictions on Licensees and Other Persons

Sec. 1. A person holding a manufacturer license or a person holding an interest in a person holding a manufacturer license may not:

(1) hold an operator license;

(2) hold an establishment license; or

(3) own an equity interest in a person holding an operator or establishment license.

Sec. 2. A person holding a distributor license or a person holding an interest in a person holding a distributor license may not:

(1) hold an operator license;

(2) hold an establishment license; or

(3) own an equity interest in a person holding an operator or establishment license.

Sec. 3. A person holding a supplier license or a person holding an interest in a person holding a supplier license may not:

(1) hold an establishment license; or

(2) own an equity interest in a person holding an establishment license.

Sec. 4. A person holding an operator license or a person holding an interest in a person holding an operator license may not:

(1) hold a manufacturer license;

(2) hold a distributor license;

(3) hold an establishment license; or

(4) own an equity interest in a person holding a manufacturer license, a distributor license, or an establishment license.



1 **Sec. 5.** A person holding an establishment license or an owner or
2 a manager of a person holding an establishment license may not:

- 3 (1) hold a manufacturer license;
4 (2) hold a distributor license;
5 (3) hold an operator license; or
6 (4) own an equity interest in a person holding a manufacturer
7 license, a distributor license, or an operator license.

8 **Sec. 6.** Notwithstanding sections 1 through 5 of this chapter, a
9 licensee may hold an otherwise prohibited equity interest of not
10 more than five percent (5%) in another person holding a license
11 under this article if the other person is registered with the
12 Securities and Exchange Commission.

13 **Sec. 7.** A person may not assemble, sell, lease, or contract to sell
14 or lease a video gaming terminal to a distributor unless the person
15 holds a valid manufacturer license.

16 **Sec. 8.** A person may not sell, lease, or contract to sell or lease
17 a video gaming terminal to an operator unless the person holds a
18 valid distributor license.

19 **Sec. 9.** A person may not place, install, or manage the operations
20 of a video gaming terminal or the major components or parts of a
21 video gaming terminal in an establishment unless the person holds
22 a valid operator license. A person may not own or lease a video
23 gaming terminal or major components or parts of a video gaming
24 terminal unless the person holds a valid operator license.

25 **Sec. 10.** A person may not service, maintain, repair, possess,
26 control, or have access to a video gaming terminal or major
27 components or parts of a video gaming terminal unless the person
28 holds a valid operator license under this article.

29 **Sec. 11. (a)** A manufacturer may not:

- 30 (1) be licensed as an operator; or
31 (2) own, control, or manage an establishment.

32 **(b)** A distributor may not:

- 33 (1) be licensed as an operator; or
34 (2) own, control, or manage an establishment.

35 **(c)** An operator may not:

- 36 (1) be licensed as a manufacturer or distributor; or
37 (2) own, control, or manage an establishment.

38 **(d)** An operator may contract only with other licensees under
39 this article.

40 **Sec. 12. (a)** An operator may not give anything of value,
41 including a loan or a financing arrangement, to any establishment
42 as an incentive or inducement to locate video gaming terminals in



1 that establishment.

2 (b) An establishment may not accept anything of value,
3 including a loan or a financing arrangement, from any person as
4 an incentive or inducement to locate video gaming terminals in that
5 establishment.

6 **Chapter 7. Video Gaming Terminal Standards**

7 **Sec. 1.** A licensee may not install a video gaming terminal in a
8 licensed establishment under a video gaming terminal installation
9 contract unless the video gaming terminal has been approved by
10 the commission.

11 **Sec. 2.** The commission may use the services of an independent
12 testing laboratory to test video gaming terminals for compliance
13 with this chapter.

14 **Sec. 3.** A video gaming terminal must do the following to satisfy
15 the requirements for approval under this chapter:

16 (1) Conform to all requirements of federal law, including
17 Class A Emissions Standards imposed under 47 CFR 15.

18 (2) Pay out a mathematically demonstrable percentage during
19 the service life of the terminal of at least eighty percent
20 (80%), but not more than ninety-five percent (95%).

21 (3) Use a random selection process to determine the outcome
22 of each play of a game.

23 (4) Use a random selection process that meets ninety-nine
24 percent (99%) confidence limits using a standard chi-square
25 test for goodness of fit.

26 (5) Display an accurate representation of the game outcome.

27 (6) Be capable of detecting and displaying the following
28 conditions during an idle state or on demand:

29 (A) Power reset.

30 (B) Door open.

31 (C) Door just closed.

32 (7) Be capable of displaying complete play history, including
33 outcome, intermediate play steps, credits available, bets
34 placed, credits paid, and credits cashed out, for the eleven (11)
35 games most recently played on the terminal.

36 (8) Allow the replacement parts or modules required for
37 normal maintenance without requiring the replacement of the
38 electromechanical meters.

39 (9) House in a locked area of the terminal meters that:

40 (A) are incapable of being reset; and

41 (B) keep a permanent record of the value of any electronic
42 card inserted into the terminal, all winnings made by the



- 1 terminal printer, credits played, and credits won by video
- 2 gaming players.
- 3 (10) Allow on demand display of the information recorded in
- 4 compliance with subdivision (9)(B).
- 5 (11) Use accounting software that keeps an electronic record
- 6 of at least the following information:
- 7 (A) The total value of all electronic cards inserted into the
- 8 terminal.
- 9 (B) The value of winning tickets claimed by players.
- 10 (C) The total credits played.
- 11 (D) The total credits awarded by the terminal.
- 12 (E) The payback percentage credited to the players of each
- 13 game.
- 14 (12) Link to a central communications system to provide
- 15 auditing program information required by the commission.
- 16 Sec. 4. The commission may not approve a video gaming
- 17 terminal:
- 18 (1) on which an automatic alteration of pay tables or any
- 19 function of the video gaming terminal through an internal
- 20 computation of hold percentage is possible;
- 21 (2) that is subject to any means of manipulation that affects
- 22 the random selection process or the probabilities of winning
- 23 a game; or
- 24 (3) that may be adversely affected by a static discharge or
- 25 other electromagnetic interference.
- 26 Sec. 5. The theoretical payback percentage of a video gaming
- 27 terminal may not be altered except by changing the hardware or
- 28 software of the video gaming terminal on site or through the
- 29 central communications system required by IC 4-38-9-5.
- 30 Sec. 6. The operator shall retain any electronically stored meter
- 31 information recorded in accordance with this chapter for at least
- 32 one hundred eighty (180) days after a loss of electric power to a
- 33 video gaming terminal in service at a licensed establishment.
- 34 Chapter 8. Video Gaming Terminal Installation Contract
- 35 Sec. 1. A video gaming terminal installation contract must
- 36 include the following terms and conditions:
- 37 (1) An affirmative statement that no inducement was offered
- 38 by the operator, the agent of the operator, or any other person
- 39 regarding the placement and operation of video gaming
- 40 terminals on the premises of the establishment.
- 41 (2) A provision prohibiting the operator from assigning the
- 42 contract to an unlicensed entity.



(3) A provision releasing the establishment from all contractual obligations to the operator if the operator surrenders its license, the license of the operator is revoked, or the commission declines to renew the operator's license.

(4) A provision that indemnifies and holds harmless the state, the commission, and any agent of the commission with respect to a cause of action arising from the contract.

(5) A statement that the operator's obligation to place video gaming terminals and the establishment's obligation to allow the placement of video gaming terminals are both conditioned upon the parties obtaining the necessary licenses to conduct video gaming under this article.

Sec. 2. Subject to section 3 of this chapter, an installation contract entered into under this article must require the adjusted gross receipts derived from video gaming to be allocated as follows:

(1) The following amounts for the first three (3) years of video gaming operations under the contract:

(A) Thirty percent (30%) to the state in the form of taxes remitted under IC 4-38-12.

(B) Forty percent (40%) to the operator.

(C) Thirty percent (30%) to the establishment.

(2) The following amounts for each year after the period described in subdivision (1):

(A) Thirty percent (30%) to the state in the form of taxes remitted under IC 4-38-12.

(B) Thirty-five percent (35%) to the operator.

(C) Thirty-five percent (35%) to the establishment.

Sec. 3. The amounts allocated to the operator and an establishment under section 2 of this chapter may be adjusted to allocate the costs of conducting video gaming under this article, including costs incurred to establish a central communications system, equally between the operator and the establishment.

Chapter 9. Conduct of Video Gaming

Sec. 1. (a) An establishment may not allow a video gaming terminal to be played except during the following periods:

(1) In the case of an establishment licensed for the consumption of alcoholic beverages on the premises of the establishment, the period beginning one (1) hour before the lawful consumption of alcoholic beverages begins in the establishment and ending one (1) hour after the lawful consumption of alcoholic beverages ends in the establishment.



(2) In the case of a truck stop establishment, during the period in which the truck stop establishment is lawfully open for business.

(b) An establishment that violates this section is subject to:

(1) the suspension, termination, or revocation of the establishment's license; or

(2) other disciplinary action as determined by the commission.

Sec. 2. An operator must own or lease each video gaming terminal installed under this article. An operator is responsible for maintaining each video gaming terminal owned or leased by the operator. An operator shall ensure that each video gaming terminal owned or leased by the operator is in compliance with this article and the requirements of the commission.

Sec. 3. (a) An operator must maintain liability insurance on any video gaming terminal or equipment placed or installed in an establishment by the operator.

(b) An establishment must maintain liability insurance on any video gaming terminal or equipment placed or installed in the establishment under a video gaming terminal installation contract.

(c) The commission shall determine the minimum amount of insurance required by this section.

Sec. 4. An establishment shall conspicuously display the following information on a poster or placard in the public area of the establishment in which video gaming is conducted:

(1) The telephone number of the toll free telephone line described in IC 4-33-12-6.

(2) That the area is restricted to individuals who are at least twenty-one (21) years of age.

(3) The telephone number of the operator.

Sec. 5. (a) An operator must ensure that each video gaming terminal in Indiana is linked to a central communications system.

(b) The central communications system required by this section must:

(1) have game to system communication protocol;

(2) use a standard industry protocol approved by the commission; and

(3) allow the commission or the operator to activate or deactivate a particular video gaming terminal from a remote location.

Sec. 6. An operator is liable for the video gaming wagering tax imposed under IC 4-38-12.

Sec. 7. An operator shall display the odds of winning each game



on or near each video gaming terminal, including the manner in which the odds are calculated.

Sec. 8. A licensed establishment conducting video gaming must install a video gaming terminal in an area separated from the public spaces of the licensed establishment in which a minor may be present. The entrance to the area must be within the view at all times of at least one (1) employee who is at least twenty-one (21) years of age. An establishment may comply with this section by erecting a physical barrier to the video gaming area, including a partition, gate, or rope that is secured to the floor or walls.

Sec. 9. The maximum number of video gaming terminals that may be installed in a licensed establishment is as follows:

- (1) Five (5) in a retail establishment.
- (2) Five (5) in a charitable organization establishment.
- (3) Ten (10) in a truck stop establishment.

Sec. 10. The cost of a credit must be one (1) of the following amounts:

- (1) One cent (\$0.01).
- (2) Five cents (\$0.05).
- (3) Ten cents (\$0.10).
- (4) Twenty-five cents (\$0.25).

Sec. 11. The maximum amount that a patron may wager on a particular game on a video gaming terminal is two dollars (\$2).

Sec. 12. The maximum amount that a patron may win on any individual hand on a video gaming terminal is five hundred ninety-nine dollars (\$599).

Sec. 13. A video gaming terminal may not directly dispense cash, coins, or any article of exchange or value other than a receipt ticket.

Sec. 14. A patron must be able to obtain a receipt ticket at the end of the patron's play by pressing a ticket dispensing button on the video gaming terminal.

Sec. 15. A receipt ticket must include the following information:

- (1) The total amount of credits and the amount of the cash award, if any, won by the patron.
- (2) The date and time that the receipt ticket is dispensed.
- (3) The serial number of the video gaming terminal.
- (4) The sequential number of the receipt ticket.
- (5) An encrypted validation number from which the validity of the cash award, if any, may be determined.
- (6) The one (1) year expiration date of the payment ticket.

Sec. 16. A patron may collect any cash award won on a video



gaming terminal by submitting the cash receipt ticket into a payout device located in the establishment.

Sec. 17. The following persons may not wager on a video gaming terminal:

(1) An employee of the commission.

(2) A person less than twenty-one (21) years of age.

Sec. 18. (a) Except as provided in subsection (c), video gaming may not be conducted at an establishment located within one hundred (100) feet of a school or place of worship.

(b) Except as provided in subsection (c), video gaming may not be conducted at an establishment located within one thousand (1,000) feet of a casino regulated under IC 4-33 or IC 4-35.

(c) The prohibitions on video gaming near facilities described in subsections (a) and (b) do not apply if a facility described in subsection (a) or (b) is opened within the minimum distance of an establishment after video gaming has commenced at the establishment.

Chapter 10. Crimes and Penalties

Sec. 1. A person who knowingly or intentionally:

(1) makes a false statement on an application submitted under this article;

(2) conducts video gaming in a manner other than the manner required by this article; or

(3) permits a person less than twenty-one (21) years of age to make a wager on a video gaming terminal;

commits a Class A misdemeanor.

Sec. 2. A licensee who knowingly or intentionally violates IC 4-38-6-12 commits a Level 6 felony.

Sec. 3. The commission may impose a civil penalty of not more than five thousand dollars (\$5,000) upon a licensee that permits a person barred from wagering under IC 4-38-9-17 to place a wager on a video gaming terminal.

Chapter 11. Judicial Review

Sec. 1. Except as provided in this article, IC 4-21.5 applies to actions of the commission.

Sec. 2. An appeal of a final rule or order of the commission issued under this article may be commenced under IC 4-21.5 in the circuit court of the county containing an affected licensed establishment.

Sec. 3. (a) The commission may require a licensee to suspend video gaming operations without notice or hearing if the commission determines that the safety or health of patrons or



employees would be threatened by the continued operation of video gaming in the licensed establishment.

(b) The suspension of video gaming operations under this section may remain in effect until the commission determines that the cause for suspension has been abated. The commission may revoke a license issued under this article if the commission determines that the licensee has not made satisfactory progress toward abating the hazard.

Chapter 12. Video Gaming Wagering Tax

Sec. 1. A tax is imposed on the adjusted gross receipts from video gaming authorized under this article at the rate of thirty percent (30%). Each operator owning a video gaming terminal on which video gaming is conducted is liable for the tax imposed by this section.

Sec. 2. An operator shall remit the tax imposed by section 1 of this chapter to the department before the fifteenth day of the calendar month following the calendar month in which the adjusted gross receipts are received by the operator.

Sec. 3. The operator shall submit the following information to the department on a form prescribed by the department before the fifteenth day of each month:

- (1) The total amount of adjusted gross receipts received from video gaming in the previous month.
- (2) The total amount of gross receipts received from video gaming in the previous month.
- (3) The total amount of taxes remitted under section 2 of this chapter.
- (4) The information required by subdivisions (1) through (3) for each licensed establishment conducting video gaming in the previous month.
- (5) The location of each establishment conducting video gaming in the previous month, including whether the establishment is located in an unincorporated area of a county.

Sec. 4. The department shall require payment under this chapter to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

Sec. 5. The department shall do the following with the tax revenue collected each month under this chapter:

- (1) Set aside forty percent (40%) of the revenue for a quarterly allocation to the municipality where the operator that submitted the taxes is located, to be used for road, street,



and bridge infrastructure.

(2) Set aside forty percent (40%) of the revenue for a quarterly allocation to the county where the operator that submitted the taxes is located, to be used for road, street, and bridge infrastructure.

(3) Deposit twenty percent (20%) of the revenue in the state general fund.

Chapter 13. License Fees

Sec. 1. The commission shall charge the following initial license fees:

(1) Twenty-five thousand dollars (\$25,000) for an initial manufacturer license, an initial distributor license, or an initial supplier license issued to a person residing or domiciled in Indiana.

(2) Thirty-five thousand dollars (\$35,000) for an initial manufacturer license, an initial distributor license, or an initial supplier license issued to a person residing or domiciled in a state other than Indiana or a country other than the United States.

(3) Fifteen thousand dollars (\$15,000) for an initial operator license issued to a person residing or domiciled in Indiana.

(4) Twenty-five thousand dollars (\$25,000) for an initial operator license issued to a person residing or domiciled in a state other than Indiana or a country other than the United States.

(5) Five hundred dollars (\$500) for an initial establishment license.

Sec. 2. (a) A person holding a distributor, manufacturer, or supplier license shall pay an annual license renewal fee of ten thousand dollars (\$10,000).

(b) A person holding an operator license shall pay an annual license renewal fee of five thousand dollars (\$5,000).

(c) The commission shall charge each person holding an establishment license the following annual renewal fees:

(1) One hundred dollars (\$100) for a licensed establishment that had adjusted gross receipts of less than twenty-five thousand dollars (\$25,000) in the previous twelve (12) calendar months.

(2) Two hundred fifty dollars (\$250) for a licensed establishment that had adjusted gross receipts of at least twenty-five thousand dollars (\$25,000) but less than fifty thousand dollars (\$50,000) in the previous twelve (12)



1 calendar months.

2 **(3) Five hundred dollars (\$500) for a licensed establishment**
 3 **that had adjusted gross receipts of at least fifty thousand**
 4 **dollars (\$50,000) but less than one hundred thousand dollars**
 5 **(\$100,000) in the previous twelve (12) calendar months.**

6 **(4) One thousand dollars (\$1,000) for a licensed establishment**
 7 **that had adjusted gross receipts of at least one hundred**
 8 **thousand dollars (\$100,000) in the previous twelve (12)**
 9 **calendar months.**

10 **Sec. 3. A licensee shall pay the annual renewal fee due under**
 11 **section 2 of this chapter on the first day of the calendar month**
 12 **containing the anniversary date of the issuance of the licensee's**
 13 **establishment license.**

14 **Sec. 4. The commission shall deposit the following into the state**
 15 **general fund:**

16 **(1) All fees collected under this chapter.**

17 **(2) All application fees received under IC 4-38-5.**

18 SECTION 3. IC 6-8.1-1-1, AS AMENDED BY P.L.220-2014,
 19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2016]: Sec. 1. "Listed taxes" or "taxes" includes only the
 21 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat
 22 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);
 23 the slot machine wagering tax (IC 4-35-8); the type II gambling game
 24 excise tax (IC 4-36-9); **the video gaming wagering tax (IC 4-38-12);**
 25 the gross income tax (IC 6-2.1) (repealed); the utility receipts and
 26 utility services use taxes (IC 6-2.3); the state gross retail and use taxes
 27 (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net
 28 income tax (IC 6-3-8) (repealed); the county adjusted gross income tax
 29 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
 30 economic development income tax (IC 6-3.5-7); the auto rental excise
 31 tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax
 32 (IC 6-6-1.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax
 33 (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement
 34 under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the aviation
 35 fuel excise tax (IC 6-6-13); the commercial vehicle excise tax
 36 (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck
 37 campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6)
 38 (repealed); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2);
 39 the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the
 40 hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5);
 41 the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
 42 (IC 6-9); the various food and beverage taxes (IC 6-9); the county



1 admissions tax (IC 6-9-13 and IC 6-9-28); the regional transportation
 2 improvement income tax (IC 8-24-17); the oil inspection fee
 3 (IC 16-44-2); the emergency and hazardous chemical inventory form
 4 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
 5 and IC 9-30); the fees and penalties assessed for overweight vehicles
 6 (IC 9-20-4 and IC 9-30); and any other tax or fee that the department
 7 is required to collect or administer.

8 SECTION 4. IC 35-45-5-14 IS ADDED TO THE INDIANA CODE
 9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 2016]: **Sec. 14. This chapter does not apply to video gaming**
 11 **authorized by IC 4-38.**

12 SECTION 5. IC 35-52-4-36 IS ADDED TO THE INDIANA CODE
 13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2016]: **Sec. 36. IC 4-38-10-1 defines a crime concerning video**
 15 **gaming.**

16 SECTION 6. IC 35-52-4-37 IS ADDED TO THE INDIANA CODE
 17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2016]: **Sec. 37. IC 4-38-10-2 defines a crime concerning video**
 19 **gaming.**

